

REMARKS

Claims 1-21 and 23-44 are all the claims pending in the present application, claim 22 having been canceled by Amendment A dated November 7, 2003, and claims 1-3, 7-11, 14, 15, 17-21, 27-35, 38-41, and 44 having been amended as set forth above to recite aspects of a disclosed embodiment with more particularity. Support for the foregoing amendments is found throughout the present application, and in particular, in FIGS. 1 and 2 and in the paragraph bridging pages 6 and 7 in the written description. No new matter has been added.

Claims 1-21 and 23-27 stand rejected under 35 U.S.C. §102(b) as anticipated by United States Patent (USP) 5,101,353 to Lupien et al. (Lupien). Claims 28-35 and 38-41 stand rejected under 35 U.S.C. §103(a) as unpatentable over Lupien in view of newly-cited USP 5,864,827 to Wilson. Claims 36, 37, and 42-44 stand rejected under 35 U.S.C. §103(a) as unpatentable over Lupien in view of newly-cited USP 5,946,667 to Tull et al. (Tull). Applicants respectfully traverse the foregoing prior art rejections, and request reconsideration and allowance of all the pending claims based upon the following remarks.

Aspects of the present invention relate generally to a system and method of processing transactions, such as order entry and execution, and inquiries, such as order status and account information inquiries. A system and method operative in accordance with the present disclosure provide increased availability to customers, increased reliability of execution, and increased auditability of the books and records of a firm through, at least in part, use of replicated, or duplicated, data. In that regard, Applicants direct the Examiner's attention to the discussion beginning at page 10, line 15, and continuing through page 12, line 11, of the present application. In accordance with this duplication scheme, as opposed to conventional technologies, "each data record is inserted without regard to referential integrity." Specifically, where data are replicated, "each data record carries with it essential information about the" transaction to which it relates, and various shortcomings associated with updating records in a distributed data structure are overcome.

The Rejections Under §102(b)

Claims 1-21 and 23-27 stand rejected under 35 U.S.C. §102(b) as anticipated by Lupien. To anticipate a pending claim under any of the various subsections of 35 U.S.C. §102, a single reference must teach every element recited in the pending claim; as set forth in more detail below, the Lupien reference is more deficient than the Examiner acknowledges. In particular,

the rejections based upon Lupien rely heavily upon an inaccurate analysis of the “customer facing utility system” (reference numeral 13 in FIG. 1 of the present application) recited in the pending claims, and upon an untenable comparison of that element with an entirely unrelated component illustrated and described in the Lupien patent (“Investor CPU,” reference numeral 15 in FIG. 1).

As previously set forth on the record, the Lupien patent discloses an automated system for managing one or more large investor portfolios containing both cash and securities in a real time environment. While the Lupien patent contemplates connecting to external automated brokers, exchanges, and markets, both clients and brokers using the system taught in the Lupien patent are limited to viewing information pertaining to all pending orders but only *their own* executed and canceled orders. The Lupien patent fails to teach or even to suggest a system including a plurality of *customer facing utility systems* adapted to communicate with both *customer systems*, on the one hand, and *other customer facing utility systems*, on the other hand, as described in the pending application and as particularly recited in pending independent claims 1, 8, 17, and 21.

Specifically, the Examiner’s suggestion that a “client system” (represented by an “Investor CPU,” reference numeral 15 in FIG. 1 of Lupien) is equivalent to a “customer facing utility system” as recited in claims 1, 8, 17, and 21 is unfounded, and represents a fundamental misunderstanding of the subject matter called out in the pending claims. Even a cursory comparison of FIGS. 1 and 2 of the present application with FIG. 1 of the Lupien patent illustrates the distinction between a “customer facing utility system” (as called out in the pending claims) and the “client system” (*i.e.*, “Investor CPU”) as taught in Lupien. If the Examiner insists upon analogizing Lupien’s “client system” (reference numeral 15) with any component described in the present application, Applicants suggest that a more appropriate analogy would be the “Customer PC” (reference numeral 23 in FIG. 1 of the present application). In that regard, whether data communications are enabled between Lupien’s various “client systems” is irrelevant, since Lupien fails to teach or even to suggest a “customer facing utility system” as described in the present application (*see, e.g.*, FIG. 1 and the text beginning at page 6, line 19, and continuing through page 7, line 6) and as specifically recited in the pending claims.

At page 3 of the outstanding Office Action, the Examiner has asserted that the Lupien patent teaches “replicating the transaction record among a plurality of client systems.” Initially,

Applicants note that the “client systems” identified by the Examiner (reference numeral 15 in FIG. 1 of Lupien) are not equivalent to the *customer facing utility systems* recited in the pending claims, and that the Examiner’s observation--whether correct or incorrect--is unremarkable. Additionally, the Lupien patent neither teaches nor even suggests the “replicating” functionality recited in the pending claims. For example, claim 1 specifically recites an element directed to “replicating data written to said authoritative data of any one of said customer facing utility systems to the authoritative data of each of the other customer facing utility systems.” These customer facing utility systems reside in locations independent of the client units (“Investor CPU” components) contemplated in Lupien. Independent claims 8, 17, and 21 call out similar limitations. Accordingly, the “replicating” described and claimed in the present application is occurring between system components neither taught specifically nor even suggested by the fair teachings of the Lupien patent.

At page 4 of the outstanding Office Action, the Examiner has noted that “each client CPU” in the Lupien patent “may view information pertaining to executed client orders . . . Enabling client CPUs to view this information requires that a record of each client’s executed order be saved in a storage medium.” Even assuming, *arguendo*, that the Examiner’s premise is not faulty, Applicants respectfully submit that the Examiner’s conclusion has no bearing on the allowability of the pending claims. As set forth above, the “replicating” described and claimed in the present application is not occurring with respect to “client CPUs” as the Examiner has presumed, but rather between *client facing utility systems*, which are neither taught nor suggested by the Lupien patent. Specifically, the “means for replicating” recited in pending claims 1 is operative to replicate “data written to said authoritative data of *any one of said customer facing utility systems* to the authoritative data of *each of the other customer facing utility systems*.” Each of the other pending independent claims includes a similar element. The Lupien patent is deficient at least to the extent that it teaches neither a customer facing utility system nor a mechanism by which replicated data from one customer facing utility system are written to other customer facing utility systems.

The Lupien patent fails to teach every element recited in the pending claims, namely, at least: a customer facing utility system, *per se*; and means for replicating data from one customer facing utility system to each of the others. At least for the reasons set forth above, Applicants

respectfully submit that the rejections under 35 U.S.C. §102(b) are improper, and that claims 1-21 and 23-27 are allowable.

The Rejections Under §103(a)

As noted above, claims 28-35 and 38-41 stand rejected under 35 U.S.C. §103(a) as unpatentable over Lupien in view of the newly-cited Wilson patent, and claims 36, 37, and 42-44 stand rejected under 35 U.S.C. §103(a) as unpatentable over Lupien in view of the newly-cited Tull patent. Applicants respectfully submit, however, that Wilson and Tull fail to supply the clear deficiencies of Lupien.

In particular, at page 7 of the outstanding Office Action, the Examiner has stated that “Wilson teaches a system and method for providing an information gateway wherein a plurality of *client systems* are permitted to communicate with one another . . .” (emphasis supplied). The Examiner’s inference that a “client system” is somehow equivalent to a “customer facing utility system” as recited in the pending claims is erroneous, as set forth above. Accordingly, even if accurate, the Examiner’s supposition (that Wilson teaches bi-directional data communication between “client systems”) is not material to the allowability of the pending claims.

Similarly, the Examiner’s suggestion that combining the fair teachings of Lupien and Wilson to “provide an open channel for communication among customers thereby enhancing the ability of customers to make informed purchasing decisions” misses the point of the present application, and fails to address the “replicating” element recited in every pending claim. Even if the respective teachings of Lupien and Wilson can be combined to suggest providing “an open channel for communication among customers,” the combination still fails to teach a plurality of customer facing utility systems (independent of the “customers”) employing replicated data for that purpose. Specifically, the combination of Lupien and Wilson, even if appropriate, still fails to teach every element recited in the pending independent claims.

Accordingly, the Examiner has failed to establish a *prima facie case* of obviousness, and the rejections under 35 U.S.C. §103(a) are improper. At least for the reasons set forth above with specific reference to claims 1, 8, 17, and 21, their respective dependencies are also allowable. Further, claims 28-35 and 38-41 recite additional features and combinations of elements, and Applicants submit that these claims are additionally allowable for their respective recitations as well.

Similarly, the newly-asserted Tull patent fails to supply the deficiencies of Lupien. At page 8 of the outstanding Office Action, Tull has been cited as teaching “a financial processing system having programming for estimating information about trade transactions that have not closed.” Claims 36 and 37 depend indirectly from claim 8, and claims 42-44 depend indirectly from claim 17; these claims incorporate by reference the elements of the claims from which they depend.

Specifically, claims 36, 37, and 42-44 each include elements directed to “replicating data records written to said authoritative data of any one of said customer facing utility systems to the authoritative data of each of the other customer facing utility systems.” As set forth in detail above, the Lupien patent fails to teach or even to suggest either: this replicating element; or the customer facing utility systems implementing the replicated data. The Examiner has failed to identify these missing elements in the Tull patent.

The Lupien and Tull patents, whether considered individually or in combination, fail to teach every element recited in the pending independent claims 1, 8, 17, and 21, and are therefore insufficient to render obvious the claims depending therefrom. In that regard, the Examiner has failed to establish a *prima facie case* of obviousness, and the rejections under 35 U.S.C. §103(a) are improper.

At least for the reasons set forth above with specific reference to claims 1, 8, 17, and 21, their respective dependencies are also allowable. Further, claims 36, 37, and 42-44 recite additional features and combinations of elements, and Applicants submit that these claims are additionally allowable for their respective recitations as well.

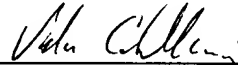
CONCLUSION

Based at least upon the foregoing Remarks, Applicants respectfully submit that all the pending claims are allowable, and that the present application is currently in condition for allowance. The Examiner is encouraged to contact the undersigned at 858-509-4007 if it is believed that a discussion may advance the prosecution of this case.

Applicants believe that no fee is required at this time. If Applicants are mistaken in that regard, please apply any charges or credit any overpayments to Deposit Account No. 50-2212.

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Respectfully submitted,



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